



Division of Elementary and Secondary Education

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April 15, 2022

Via Email

Rebecca Miller-Rice
Rules Administrator
Bureau of Legislative Research
miller-ricer@blr.arkansas.gov

**Re: Proposed Rules Amendments (for Subcommittee Review): Division of
Elementary and Secondary Education Rules Governing Required Training for
School Board Members**

Dear Ms. Miller-Rice:

Attached are proposed amendments to the DESE Rules Governing Required Training for School Board Members. This filing also contains a markup version of the rules, post-public comment summary, Financial Impact Statement, and public comments/Division responses. The Division respectfully requests that these proposed rules amendments be placed on the ALC Administrative Rules Subcommittee agenda.

On December 29, 2021, the State Board of Education approved these rules amendments for public comment release, with the Governor's Office approving them on January 27, 2022. Following public comment, non-substantive changes were made, which are highlighted on the markup version. On April 14, 2022, the State Board gave its final approval to these rules amendments.

If you have any questions or require further information, please do not hesitate to call me at (501) 682-4234.

Respectfully submitted,

/s/ Cristy Park
Attorney Specialist
Arkansas Department of Education

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____
DIVISION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ FAX NO. _____ EMAIL: _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;
- b) The reason for adoption of the more costly rule;
- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Summary of Proposed Changes to Rules Governing Training for School Board Members

Act 182 of 2021 adds information regarding school safety and student discipline to the required training for school board members, removes language stating that required trainings for specific topics shall be required only one time, changes time allowed for making up deficient training hours from thirty (30) days from the date of the January board meeting to January 1 through thirty (30) days following the date of the January board meeting, and sets out requirements for how superintendents provide annual reports.

Regarding reporting requirements, superintendents must provide annual reports in table format with rows for each individual school board member and columns for the number of training hours the school member received between January 1 and December 31 of the previous year, the number of training hours carried forward from the previous year that were eligible to be counted towards the previous year, the sum of those numbers, and the total number of hours the board member is required to receive.

Post Public Comment Summary

Following public comment, only non-substantive clarifying, and technical changes were made.

**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING REQUIRED TRAINING
FOR SCHOOL BOARD MEMBERS
May 2020 _____**

1.00 REGULATORY AUTHORITY

- 1.01 The State Board of Education promulgates these Rules pursuant to Ark. Code Ann. §6-13-629 ~~and Acts 168 and 1029 of 2019.~~
- 1.02 This Rule shall be known as the Division of Elementary and Secondary Education (DESE) Rules Governing Required Training for School Board Members.

2.00 PURPOSE

- 2.01 The purpose of these Rules is to outline the type and amount of training required for new and continuing local school board members.

3.00 DEFINITIONS

- 3.01 “Annual School Performance Report” means the report required to be posted on the DESE website for each school district annually under Ark. Code Ann. § 6-15-1402.
- 3.02 “Comprehensive School Improvement Plan” means the plan that each local school district must prepare annually under the Division of Elementary and Secondary Education Rules Governing Standards for Accreditation of Arkansas Public School and School Districts Standard 5-A.1.

4.00 TRAINING HOURS REQUIRED

- 4.01 A member of a local school district board of directors who has served on the board of directors for twelve (12) or more consecutive months shall obtain no less than six (6) hours of training and instruction by December 31 of each calendar year.
- 4.02 A member of a school district board of directors elected for an initial or non-continuous term shall obtain no less than nine (9) hours of training and instruction by December 31 of the calendar year following the year in which the member is elected.
- 4.02.1 The training or instruction under Section 4.02 of this Rule shall include training or instruction on how to read and interpret an audit report; and information regarding school safety and student discipline.
- 4.03 Hours of training and instruction obtained in excess of the minimum requirements each year may accumulate and be carried forward through December 31 of the third calendar year following the year in which the hours were obtained.

5.00 TRAINING CONTENT

- 5.01 The training and instruction required under this Rule shall include topics relevant to school laws, school operations, and the powers, duties, and responsibilities of the members of the boards of directors, including without limitation:

5.01.1 Legal requirements, including without limitation:

- 5.01.1.1 The following items listed or required by the Legislative Joint Auditing Committee under Ark. Code Ann. § 6-1-101:

5.01.1.1.1 Audit management letter

5.01.1.1.2 Ethical guidelines

5.01.1.1.3 School elections

5.01.1.1.4 Management of schools

5.01.1.1.5 Revolving loan funds

5.01.1.1.6 School district finances

5.01.1.1.7 School district school bonds

5.01.1.1.8 Teachers and employees

5.01.1.1.9 Teachers' salaries

5.01.1.1.10 Deposit and investments of funds

5.01.1.1.11 Improvement contracts

- 5.01.1.2 Other financial laws or regulations designated by **DESE**;

5.01.2 Role differentiation;

- 5.01.3 Financial management, including without limitation how to read and interpret an audit report;

- 5.01.1.3 The training or instruction on how to read and interpret an audit report shall be conducted by a person who:

- 5.01.1.3.1 Is licensed to practice accounting by the Arkansas State Board of Public Accountancy and has prior experience conducting school district financial audits.

5.01.1.3.2 The instructor of the audit training must not be an employee of Arkansas Legislative Audit unless the training is conducted for the boards of directors of multiple school districts.

5.01.1.3.3 The instructor must not be the person conducting the annual audit or other financial audit of the school district unless the training or instruction is presented in a large group setting sponsored by a statewide or regional organization that is attended by multiple school districts.

5.01.1.4 Training or instruction shall be conducted under the consultation or supervision of an individual who qualifies under Section 5.01.1.3 of these rules as part of a program that is provided:

5.01.1.4.1 By an institution of higher education located in Arkansas;

5.01.1.4.2 From instruction sponsored or approved by the DESE; or

5.01.1.4.3 By an in-service training conducted by or through the Arkansas School Boards Association.

5.01.1.5 The audit training or instruction may be presented by electronic means, in person, or both.

5.01.4 Improving student achievement; and

5.01.5 Information regarding school safety and student discipline.

~~5.01.5.1 A member shall be required to complete the program in Section 5.01.5 only one (1) time.~~

6.00 TRAINING PROVIDERS

6.01 This instruction may be provided to board members by an institution of higher learning in this state, by programs sponsored or approved by the DESE, or by an in-service training program conducted by or through the Arkansas School Boards Association

6.02 Any instruction directly provided to board members by either an institution of higher learning in this state, the DESE, or the Arkansas School Boards Association, which instruction meets the training content requirements of Section 5.00 of these Rules, shall not require pre-approval by the DESE. All other instruction must be pre-approved by the DESE in order for the training to count towards the required hours under Section 4.00 of this Rule.

- 6.03 At least thirty (30) days before a training program meeting the content requirements of Section 5.00 of these Rules is offered to members of a local school district's board of directors, the provider shall provide a detailed description of the entire program including staff qualifications to the DESE.
- 6.04 The DESE shall promptly review the content of the program for compliance with any and all applicable statutes and Division rules to determine if any or all of the program content shall be deemed to provide training and instruction credit and shall establish the time period the training and instruction provider is approved to offer the program.
- 6.05 Upon notification by the DESE of approval of the program (or a part or parts thereof) for training and instruction credit, the provider may enroll participants in the program and offer the program for training and instruction credit for the set time period.
- 6.06 The provider shall be responsible for the preparation and dissemination of proof of completion of the program (or parts thereof) to all attendees. All such proof, or copies thereof, shall be submitted by the board member attendees to the superintendent of the district whose board they serve.

7.00 RECORDS OF TRAINING

- 7.01 A school district shall maintain a record of hours of training and instruction for board members, which may be in the form of an attested, cumulative annual report from the training providers and which shall be subject to verification and inspection during the school district's annual audit
- 7.02 A statement of the hours of training and instruction obtained by each board member in the preceding year shall be:
 - 7.02.1 Part of the school district's comprehensive school improvement plan and goals;
 - 7.02.2 Posted in the same way that other components of the comprehensive school improvement plan and goals are required to be; and
 - 7.02.3 Made a part of the annual school performance report required under Ark. Code Ann. § 6-15-1402.
- 7.03 The superintendent of each school district shall annually prepare a report of the training hours each individual school board member received ~~the previous calendar year and those carried forward from a previous year that were eligible to be counted towards the previous year~~ to be presented at the board's regular January meeting.
 - 7.03.1 The superintendent's report shall be presented in a table format with a row for each individual school board member that is followed by individual columns containing the following information:

- 7.03.1.1 The number of training hours the school board member received between January 1 and December 31 of the previous year.
- 7.03.1.2 The number of training hours carried forward from the previous year that were eligible to be counted towards the previous year.
- 7.03.1.3 The sum of the number of training hours the school board member received under Section 7.03.1.1 and Section 7.03.1.2.
- 7.03.1.4 The total number of training hours the board member is required to receive under Section 4.00.
- 7.03.2 The Superintendent's report shall not include:
- 7.03.2.1 Any training hours a board member receives after December 31 of the previous year.
- 7.03.2.2 The training hours the board member accrues under Section 7.03.3.1.
- 7.03.3 Members who fail to receive or carry forward the required number of training shall be:
- 7.03.3.1 Permitted from January 1 through thirty (30) days from following the date of the January board meeting to complete the deficient training hours; and
- 7.03.3.2 Suspended from participating in official business, except for board member training, until the board member obtains the deficient hours.
- 7.03.4 A board member who fails to cure the board member's training hours deficiency ~~within the thirty (30) days allowed in~~ during the time provided under Section 7.03.3.1 shall be removed from the board and the board member's position shall be filled in accordance with Ark. Code Ann. § 6-13-611 unless:
- 7.03.4.1 The board ~~members'~~ member's failure to receive the required training during the time provided under Section 7.03.3.1 was due to military service of the board member; or
- 7.03.4.2 The board member provides a written sworn statement from the board member's treating physician stating that the board member's failure to receive the required training

during the time provided under Section 7.03.3.1 was due to a serious medical condition.

- 7.03.5 A board member who provides the necessary documentation under Section 7.03.4 shall have until December 31 of the year following the year the board member failed to receive the required training to receive both the hours of training required for the current year and the hours the board member failed to obtain the previous year.

8.00 AUTHORIZATION TO REIMBURSE FOR RELATED EXPENSES

- 8.01 Local school district boards of directors are authorized to pay a reasonable per diem and other necessary expenses from funds belonging to the school district and to reimburse school board directors for expenses incurred in attending in-service workshops, conferences, and other courses of training and instruction required in completing the training and instruction as required under these Rules.

9.00 ENFORCEMENT

- 9.01 A school district shall demonstrate compliance with the requirements of these Rules in addition to complying with the provisions of Section 7.00 of these Rules by causing its superintendent to file a written statement of assurance with the DESE pursuant to Ark. Code Ann. § 6-15-202.
- 9.02 A school district which fails to comply with the provisions of Ark. Code Ann. § 6-13-629 and the procedural requirements articulated in these Rules shall be subject to being placed in probationary status pursuant to Section 6.00 of the Division of Elementary and Secondary Education Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts.
- 9.03 A vacancy on the school board shall occur if a board member fails to receive the mandatory hours of training within the time frame required by Ark. Code Ann. § 6-13-629 unless the failure was due to military service of the board member or a serious medical condition as demonstrated by a written sworn statement of the board member's treating physician.
- 9.04 The board shall not appoint the board member who failed to receive the required hours of training to fill the vacant position on the board that resulted from the board member's failure to receive the required hours of training.

Exhibit A

DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
REQUEST TO PRESENT A TRAINING PROGRAM TO
SCHOOL BOARD MEMBERS

Please compile the following information and submit it electronically via the Division's website:

<http://www.arpdsam.org/>

Pursuant to Section 6.03 of the Division of Elementary and Secondary Education Rules Governing Required Training for School Board Members (Rule), program providers must submit a detailed description of the entire program, including staff qualification, to the Department to be received at least thirty (30) days prior to the date of the program. This deadline will allow for review of the program to determine whether training and instruction credit pursuant to Ark. Code Ann. § 6-13-629 and this Rule may be awarded.

1.) Name and Address of Provider: _____

2.) Contact Person for Provider: Name: _____

Address _____

Phone Number: _____

Fax: _____

E-Mail _____

3.) Title and Detailed Description of Program: _____

4.) Please indicate how the program content will apply to Section 5.00, Training Content, of the Rules Governing Required Training for School Board Members

5.) Date(s) program is to be presented: _____

6.) Members of provider's staff who will provide instruction at the program:

a.) Staff Member's Name: _____

Address: _____

Phone Number _____

Fax Number: _____

E-mail: _____

List qualifications to present program (include relevant educational background, work experience, examples of similar programs presented, etc.):

b.) Staff Member's Name: _____

Address: _____

Phone Number _____

Fax Number: _____

E-mail: _____

List qualifications to present program (include relevant educational background, work experience, examples of similar programs presented, etc.):

c.) Staff Member's Name: _____

Address: _____

Phone Number _____

Fax Number: _____

E-mail: _____

List qualifications to present program (include relevant educational background, work experience, examples of similar programs presented, etc.):

d.) Staff Member's Name: _____

Address: _____

Phone Number _____

Fax Number: _____

E-mail: _____

List qualifications to present program (include relevant educational background, work experience, examples of similar programs presented, etc.):

e.) Staff Member's Name: _____

Address: _____

Phone Number _____

Fax Number: _____

E-mail: _____

List qualifications to present program (include relevant educational background, work experience, examples of similar programs presented, etc.):

f.) Staff Member's Name: _____

Address: _____

Phone Number _____

Fax Number: _____

E-mail: _____

List qualifications to present program (include relevant educational background, work experience, examples of similar programs presented, etc.):

- 7.) Please add to this document any other information that you believe would be helpful in assisting the Division in determining whether to grant your request.

- 8.) The DESE shall promptly review the content of the program for compliance with any and all applicable statutes and Division rules to determine if any or all of the program content shall be deemed to provide training and instruction credit and shall establish the time period the training and instruction provider is approved to offer the program.
- 9.) Upon notification by the DESE of approval of the program (or parts thereof) for training and instruction credit, the provider may enroll participants in the program and offer the program for training and instruction credit for the set time period.
- 10.) The provider shall be responsible for the preparation and dissemination of proof of completion of the program (or parts thereof) to all attendees. All such proofs, or copies thereof, shall be submitted by the board member attendees to the superintendent of the district whose board they serve.

Submitted by: _____ Date: _____

FOR DESE USE ONLY

Date Provider Information Received _____

Date Reviewed: _____

Request to Present Program: Approved: _____

Denied: _____

Date of decision: _____

Signature of DESE Representative: _____

DESE RULES GOVERNING REQUIRED TRAINING FOR SCHOOL BOARD MEMBERS

Public Comments and Responses of the Division of Elementary and Secondary Education

Commenter Name: Lucas Harder, Arkansas School Boards Association (2/22/2022)

Comment (1): 5.01.1.2: “Arkansas Division of Elementary and Secondary Education” could be abbreviated to “DESE” here.

Division Response: Comments considered. **Non-substantive change made.**

Comment (2): 5.01.1.4.2: “Division of Elementary and Secondary Education” could be abbreviated to “DESE”.

Division Response: Comments considered. **Non-substantive change made.**

Comment (3): 7.03.1.3: As written, this would only have the column include the hours received during the previous calendar year rather than those hours as well as those carried forward. As such, I would recommend amending this section to read “The sum of the number of training hours the school board member received under Section 7.03.1.1 and Section 7.03.1.2.”

Division Response: Comments considered. **Non-substantive change made.**
